IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

WP(C).No. 36021 of 2015 (C)
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PETITIONER(S):

BASHEER K.P., AGED 40 YEARS,
S/O.ASSAINAR K.P., ERANIKKAL, THAZHAMPATTA HOUSE,
POOVATTUPARAMBA, CALICUT-673 008.

BY ADV. SRI.JOHN JOSEPH(ROY)

RESPONDENT(S):
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1. **ICICI BANK,**
   REPRESENTED BY THE AUTHORISED OFFICER,
   ICICI BANK LTD., CALICUT BRANCH NEAR YMCA, CALICUT,
   PIN-673 001.

2. **THE REGIONAL MANAGER/AGM,**
   ICICI BANK LTD., REGIONAL OFFICE, NEAR YMCA,
   CALICUT-673 001.

3. **RESERVE BANK OF INDIA,**
   REPRESENTED BY THE REGIONAL MANAGER, PALAYAM,
   THIRUVANANTHAPURAM-695 001.

R1 & R2 BY ADVS. SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.K.H.ANSAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 36021 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 :TRUE COPY OF THE NOTICE DT.23-5-2015 ISSUED BY RESPONDENT SHOWING THE OUTSTANDING AMOUNT.

P2 :TRUE COPY OF THE LETTER DT.13-7-2015 ISSUED BY RESPONDENT SHOWING THE OUTSTANDING AMOUNT.

P3 :TRUE COPY OF THE NOTICE DT.14-7-2015 ISSUED BY KELSA ERNAKULAM TO THE PETITIONER.

P4 :TRUE COPY OF THE NOTICE DT.9-10-2015 ISSUED BY RESPONDENT IN NEWSPAPER.

P5 :TRUE COPY OF THE REPRESENTATION DT.23-11-2015 SUBMITTED BY THE PETITIONER.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 36021 of 2015
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Dated this the 7th day of December, 2015

JUDGMENT

The petitioner, who had availed a loan from the respondent bank, defaulted in repayment of the same. Consequently, the respondent bank initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P4 is the notice issued to the petitioner under Section 13(2) of the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing Counsel appearing on behalf of the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I note that the sole prayer of the petitioner is to permit him to remit the balance amounts outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total overdue amount, in respect of the loan, is stated to be Rs.1,91,443/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,91,443/- together with accrued interest in eight equal and successive monthly installments commencing from 20.12.2015, and continues to keep up the regular installments as per the original loan schedule, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

(iii) On the petitioner remitting the 4th installment as directed in this judgment, the respondents shall furnish the petitioner with an upto-date statement of account, so as to enable the petitioner to discharge the balance installments directed in this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das /7.12.15